

**Town of St. Albans
Development Review Board Meeting Minutes
Thursday, March 12th, 2020
6:30 p.m.**

On Thursday, March 12th, 2020 at 6:30 p.m., the Town of St. Albans Development Review Board met at Town Hall for hearings.

Present: Chair, Brent Brigham, Vice Chair, Arthur Omartian, Clerk Bruce Thompson, Christina Boissoneault, Mike McKennerney, Tom Stanhope, Zoning Administrator, Becky Perron, and Town Attorney Chad Bonanni

Absent:

Chair, B. Brigham called the Development Review Board hearing to order at 6:30 p.m.

New Business:

Continued Business:

1. **Continued appeal of Thomas M. Carpenter in accordance with Section 806 of the St. Albans Town Unified Development Bylaws. The property subject to appeal is located at 0 Swanton Road in the Commercial District within a Designated Growth Center and owned by the Appellant.**
2. **Continued appeal of Thomas Carpenter in accordance with Section 806 of the St. Albans Town Unified Development Bylaws. The property subject to appeal is located at 447 Swanton Road in the Commercial District within a Designated Growth Center and owned by the Appellant.**
3. **Continued appeal of Thomas M. Carpenter in accordance with Section 806 of the St. Albans Town Unified Development Bylaws. The property subject to appeal is located at 457 Swanton Road in the Commercial District within a Designated Growth Center and owned by the Appellant.**
4. **Continued appeal of Thomas M. Carpenter in accordance with Section 806 of the St. Albans Town Unified Development Bylaws. The property subject to appeal is located at 465 Swanton Road in the Commercial District within a Designated Growth Center and owned by the Appellant.**
5. **Continued appeal of Thomas M. Carpenter in accordance with Section 806 of the St. Albans Town Unified Development Bylaws. The property subject to appeal is located at 497 Swanton Road in the Commercial District within a Designated Growth Center and owned by the Appellant.**

The Appeals were all heard at the same time. The Appeals were represented by Appellants, Thomas Carpenter and Chasity Hemond, Andy MacIlwaine, Attorney, and Joseph Flynn, Land Surveyor and Engineer.

The Appellants were sworn in by Clerk, B. Thompson.

B. Brigham opened by saying the last time the Appellants were before the Board there was a continuance granted to allow the Appellant and the Town to work out an agreement or for the Appellant to submit an application to remedy the violations. B. Brigham noted that a couple of the violations had been corrected and stated the Board would now here the Appellant's appeal.

A. MacIlwaine explained he became involved shortly after the Notices of Violation (NOV) were issued and has been working with the Town and their Attorney to find a solution. He presented a compilation of emails to demonstrate the amount of effort that the Appellant has made to try to bring a complicated situation into resolve. B. Brigham asked C. Bonanni if the Board could take the email exchanges as

exhibits. C. Bonanni explained that exhibits can be submitted but he did not think correspondence regarding potential settlements should be revealed. A. MacIlwaine understood C. Bonanni's opinion, but explained he was trying to show attempts have been made at progress. A. MacIlwaine stated J. Flynn could advise the Board on the remaining violations. He stated that the situation (NOV's) didn't arise due to a complaint, but rather when T. Carpenter and C. Hemond came to the Town to try to merge two lots. He also added there has been a miscommunication over whether two lots are already merged. The Appellant is working to bring the property into compliance and does have a plan.

B. Brigham stated it was his understanding the Board was to hear an appeal of the NOV's. He asked if the Appellant was showing their plans as evidence that the properties were not in violation? The Appellant explained they are trying to reach a settlement, but wanted the Board to see their final plan so they can have an adequate timeline to come into compliance.

A. Omartian asked how long the Appellant and Town have been working on a settlement. It has been since last summer. A. MacIlwaine stated that as recent as the day prior there was correspondence to try to come to a settlement agreement. There has been a challenge on certain terms of the agreement and some issues had just been determined. A. MacIlwaine stated J. Flynn could go over the details of the timeline to get the violations under control.

A. Omartian explained the Board typically deals with applications that are firmed up and they do not partake in the preliminary engineering leading up to the application. He inquired why the Appellant has not filed for Site Plan and Conditional Use. J. Flynn explained O'Leary and Burke has only been a part of this process for the past four and a half months. There has been some back and fourth regarding what the Appellant needs to accomplish to be considered in compliance. In some versions of the plan there could be new violations created so the Appellant is trying to move forward with a viable option. The forms have been filled out and roughly 85% of the work has been done to submit plans.

J. Flynn went over the proposed plans. He outlined the violations one by one. He pointed out the two violations that have been corrected and certified to by a registered engineer; the removal of the parking area located at 465 Swanton Road and the removal of the spur road portion at 497 Swanton Road.

J. Flynn pointed out the violations at 0 Swanton Road which include the expansion of a commercial parking area and the sales of camping vehicles which violates the previously approved Site Plan. He explained if approved the new Site Plan will allow for the expanded gravel area. Even with the expanded gravel area the Stormwater design is sufficient to handle the excess water. If there were any future expansions on top of what is currently there the Stormwater design would need to be reviewed.

J. Flynn showed the storage sheds that have been placed at 0 Swanton Road without Site Plan approval and explained the proposed Site Plan would include these and therefor alleviate the violations at 0 Swanton Road.

J. Flynn identified the violations at 447 Swanton Road which is unpermitted Motor Vehicle Repair, Service or Sales by utilizing a residential property for commercial storage and sales of camping vehicles which would require Site Plan and Conditional Use approvals. The Appellant is proposing to merge two lots together, remove one curb cut to the house and business, demolish the uninhabitable house, and use the fill located at 497 Swanton road to fill in the hole from the demolished house. The fill creates a violation at 497 Swanton Road which will be alleviated once the fill is removed. Once the two lots are merged together the requirements for frontage and coverage will be met.

B. Brigham asked if TC's RVs will operate from the new proposed lot 4. It was confirmed.

J. Flynn pointed out the proposed Boundary Line Adjustments between lots which will result in the commercial uses being on the commercial lots and residential uses on the residential lots.

B. Thompson asked if the Appellant is selling a lot. C. Hemond explained that the NOV's came about because they were trying to merge two lots so eventually, they can sell a lot.

B. Thompson noted that part of the new Lot 5 shows gravel that has not been approved through Site Plan Amendment. He wondered if the violation would just stay there and if the DRB was just supposed to ignore it. T. Carpenter said he could turn the gravel into grass. C. Hemond stated Lot 5 can't be used until they put in a road to access it.

B. Brigham asked if all of the measures discussed would rectify the existing violations. The Appellant confirmed. B. Thompson asked how long these plans would take. T. Carpenter stated he would like to have until September 1st to bring the property into compliance, but hoped it would not take that long. He explained that they have not received approvals to remove the house due to some materials within the house. He also does not want to make a mess of his lot and the road since it is a muddy time of year. J. Flynn mentioned that construction in the winter is much more involved than construction in the summer due to permitting.

B. Thompson explained the Board waited five months since the previous continuance and it seems like the Appellant had not made much progress. A. MacIlwaine stated the Appellants have been working on their plans and asked the DRB to hold the appeal process in abatement while they work to submit the necessary plans. He said he understood the Board's frustrations but the Appellants are equally frustrated and understand there are real consequences if they cannot bring their properties into compliance.

B. Perron told the Board she disagreed with C. Hemond's previous comment about how the NOV's were noticed. She received a complaint regarding all of the dirt piles located at 497 Swanton Road and did a follow up and noticed the other violations.

B. Thompson asked what the Appellant is asking for. A. MacIlwaine said they are asking for the ability to submit the applications that are required to solve the violations and if approved, problems solved; if the applications are denied they will be back to where they are now. The Appellant is attempting to show the Board they are in the process of fixing the violations.

T. Stanhope inquired how long it will take to get the applications together which will alleviate the violations. J. Flynn explained it depends how long it takes B. Perron to review the applications and get back to him with questions or comments. B. Perron stated she has not received the applications with the fees as of yet and there is still a lot of discussion that needs to be had with the plans. She explained there are large differences between the two parties which include if the Appellant believes two of their lots are merged or not. If they are merged, as a mylar on file indicates, the Appellant will need to also apply for a subdivision permit which B. Perron has not received an application for.

B. Brigham asked why B. Perron believes the two lots are merged. B. Perron explained there is a mylar on file from a Boundary Line Adjustment that shows 0 Swanton Road and 457 Swanton Road as being merged due to lack of frontage along 0 Swanton Road. C. Hemond said there is a mylar filed, but they did not read the mylar the way the Town is reading it and they have never considered the two properties joined together. A. MacIlwaine stated it will be a moot point once the road is put in. Once a 60' access is put in the lots can be separated. B. Perron reiterated it only matters because it's another permit that needs to be applied for.

J. Flynn stated his portion of the work should take about four weeks plus whatever time B. Perron needs to review permits.

The Appellants long term goal is to sell Lot 1, build a facility on Lot 4, put in a road for frontage and have parking on Lot 3. J. Flynn acknowledged there will need to be future Site Plan Amendments and there are a lot of moving pieces to this plan.

B. Brigham asked if there is a reason the Appellant doesn't withdraw their appeal of the ZA's decision to issue a NOV and move forward with submitting permits? A. MacIlwaine explained there needs to be an agreement to outline what the parties want to accomplish and how to do so. If the Appellant withdraws their appeal both sides have to be on the same terms; they are close to a settlement but there are still some lingering issues. C. Bonanni stated the property owner still needs to come into compliance regardless if there is a settlement agreement or not. B. Brigham explained the Board understood the Appellant needs to come into compliance, and they appear to be working toward that, but the appeals have been floating around for nine or ten months. What should the Board do, continue the appeal again? A. MacIlwaine stated the Appellant would ideally be allowed to continue the Appeal again, but they would respect whatever decision the Board makes. He explained if the Board upholds the ZA's decisions to issue the NOV's the clock starts ticking on the rights given to the Appellant by statute. Although the ultimate goal is to come into compliance, they will need to submit an appeal to the Environmental Court if the Board upholds the ZA's decision.

B. Perron stated that whatever the Board decides regarding the Appeal, she will still work with the Appellant to try to get them what they want from the plans, and then to submit the plans and applications. C. Hemond thought as long as the properties are in violation, they cannot submit plans or applications. B. Perron stated that is not accurate. B. Brigham explained that was a discussion that he had, that no one should be allowed to submit a new application as long as they are in violation, but he has been told that is not the case. B. Perron said she had expected that the violations would have been corrected or that application would be submitted to the Board prior to tonight's meeting.

J. Flynn stated he had missed the cut-off to apply and have the meeting warned by 6 days. B. Perron explained the Application would have been incomplete due to a lack of AOT approvals and fees and she cannot warn a meeting until she has a complete application.

B. Brigham said they would take up the Appeal in their deliberative session.

B. Perron explained that the previous DRB meeting had been missed due to a lack of a quorum. The Board agreed to hear the Appeal and Application of Malone Doreset St properties to the meeting of

March 26th.

MOTION: T. Stanhope made a motion to continue the Appeal and Application of Malone Doreset St Properties to the meeting of March 26th due to a lack of quorum at the meeting of February 27th. C. Boissoneault seconded. All in favor, none opposed, motion carried.

Deliberative Session

MOTION: B. Thompson made a motion to enter deliberative session at 7:30 p.m. C. Boissoneault seconded. All in favor, none opposed, motion carried.

MOTION: A. Omartian made a motion to come out of deliberative session at 8:15 p.m. C. Boissoneault seconded. All in favor, none opposed, motion carried.

MOTION: B. Brigham made a motion to uphold the Zoning Administrator's notice of violation for 0 Swanton Road dated 5/7/2019. T. Stanhope seconded. All in favor, none opposed, motion carried.

MOTION: B. Brigham made a motion to uphold the Zoning Administrator's notice of violation for 447 Swanton Road dated 5/7/2019. T. Stanhope seconded. All in favor, none opposed, motion carried.

MOTION: B. Brigham made a motion to uphold the Zoning Administrator's notice of violation for 457 Swanton Road dated 5/14/2019. T. Stanhope seconded. All in favor, none opposed, motion carried.

MOTION: B. Brigham made a motion to uphold the Zoning Administrator's notice of violation for 465 Swanton Road dated 5/7/2019 with the exception of violation A, of the parking area which has been removed and certified to in a letter dated January 7th, 2020 by O'Leary Burke Civil Associates. T. Stanhope seconded. All in favor, none opposed, motion carried.

MOTION: B. Brigham made a motion to uphold the Zoning Administrator's notice of violation for 497 Swanton Road dated 5/7/2019 with the exception of violation B, the spur road portion which has been removed and certified to in a letter dated January 7th, 2020 by O'Leary Burke Civil Associates. T. Stanhope seconded. All in favor, none opposed, motion carried.

Minutes:

M. McKennerney made a motion to accept the minutes from the DRB meeting dated February 13th, 2020. T. Stanhope seconded. All in favor, none opposed, motion carried.

Adjournment:

MOTION: B. Thompson made a motion to adjourn the DRB meeting at 8:15 p.m. A. Omartian seconded. All in favor, none opposed, motion carried.

**Respectfully Submitted,
AJ Johnson, Administrative Assistant**

Brent Brigham, Chair

Arthur Omartian, Vice Chair

Bruce Thompson, Clerk

Christina Boissoneault

Tom Stanhope

Mike McKennerney